

COMPARISON OF PROVISIONS OF H.R. 5470
(PERIODIC PAYMENT SETTLEMENT ACT OF 1982)

AS PASSED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE

Prepared for Use by the House and Senate Conferees
by the Staff of the Joint Committee on Taxation

December 18, 1982

JCX-53-82

COMPARISON OF PROVISIONS OF H. R. 5470
(Periodic Payment Settlement Act of 1982)

ITEM	PRESENT LAW	HOUSE BILL	SENATE AMENDMENT
1. Exclusion for Periodic Damage Payments	Present law generally excludes from gross income damages received by an individual on account of personal injuries or sickness. Furthermore, the IRS has ruled that damages for personal injuries are excludable from gross income whether paid as a lump sum, or paid in periodic payments out of a fund invested and owned by the tortfeasor or an insurer.	The House bill excludes from gross income damage payments for injuries or sickness whether paid as lump sums or as periodic payments. Any amount received for agreeing to assume a liability for periodic payments of personal injury damages will not be included in gross income to the extent it is used to purchase an insurance annuity or a U.S. obligation to cover the liability. The provision is effective for taxable years ending after 1982.	The Senate amendment is similar to the House bill, except that if an annuity contract is used to fund periodic payments, it must be issued by a life insurance company.

ITEM	PRESENT LAW	HOUSE BILL	SENATE AMENDMENT
2. Exclusion from gross income for certain foster care payments	Except as otherwise provided by law, gross income means all income from whatever source derived. The IRS has set forth guidelines regarding the tax treatment of amounts received and amounts expended by individuals providing foster care to children. If foster parents are rendering gratuitous services to child-placing agencies in feeding, clothing, and caring for foster children, then payments received from the child-placing agency for the support of a foster child are excludable from gross income to the extent that the payments do not exceed the expenses incurred by the foster parents in supporting the child. If foster parents have a profit motive, then a portion of each payment from the child-placing agencies represents reimbursement or advancement for expenses incurred on behalf of the agency by the foster parents, and the remainder is compensation for their services.	The House bill excludes from the gross income of a foster parent amounts paid to reimburse the foster parent for the expense of caring for a foster child (under the age of 19) in the foster parent's home and difficulty of care payments. "Difficulty of care" payments are payments in addition to basic payments for the care of a foster child and are made as compensation for providing the additional care required by reason of a child's handicap. For payments to be excludable, the foster child must be placed by a State or local agency, or by a State licensed, private, tax-exempt agency. The provision applies to taxable years beginning after December 31, 1978.	The Senate amendment generally is similar to the House bill, except that it excludes only difficulty of care payments. Furthermore, the Senate amendment does not require private child-placing agencies to be licensed by the State.

ITEM	PRESENT LAW	HOUSE BILL	SENATE AMENDMENT
3. Taxation of Indian tribal governments	States (including the District of Columbia) and their political subdivisions generally are exempt from Federal tax. In addition, numerous transactions by private parties with State governments and their political subdivisions result in favorable Federal tax treatment (e.g., exclusion from gross income, tax deductions, or tax credits) for the private parties involved. Under present law, Indian tribal governments are not treated as State governments. Tribal government income is tax exempt, however, until the income is received, or constructively received, by tribe members.	No provision.	The Senate Amendment extends certain tax provisions to American Indian tribal governments on the same basis as such provisions apply to States. The bill will (a) grant a deduction from Federal income tax for taxes paid; (b) provide that charitable contributions to Indian tribal governments will be deductible for income, estate, and gift purposes; (c) exempt Indian tribal governments from a variety of excise taxes (including the tax on special fuels, the manufacturers' excise taxes and the tax on the use of certain highway vehicles); and (d) provide an income tax exemption for certain governmental obligations, subject to special limitations regarding the tax treatment of industrial development bonds, issued by an Indian tribal government. In general, the provision applies after December 31, 1982.

ITEM

PRESENT LAW

HOUSE BILL

SENATE AMENDMENT

4. Waiver of Preemption in case of Hawaiian Prepaid Health Care Act

The Employee Retirement Income Security Act of 1974 (ERISA) provides comprehensive rules relating to employee benefit plans, including plans providing health benefits to employees. ERISA generally supersedes State laws insofar as they relate to employee benefit plans.

The Hawaii Prepaid Health Care Act provides for a program of health insurance for employees. As a result of litigation, it was determined that the Hawaiian Act was preempted by ERISA (Standard Oil Company of California v. Agsalud, 633 F. 2d 760 (9th Cir. 1980), aff'd, 454 U.S. 801 (1981)).

The provision generally exempts the Hawaii Prepaid Health Care Act from preemption by ERISA. Under the provision, however, preemption is continued with respect to (1) any State tax law relating to employee benefit plans, or (2) any amendment of the Hawaii Act enacted after September 2, 1974, to the extent the amendment provides for more than the effective administration of that Act as in effect on September 2, 1974.

The provision is effective on the date of enactment.

The Senate amendment generally follows the House bill except that the exemption from the ERISA preemption provision only applies to the Hawaii Act, as in effect on January 1, 1976. Additionally, the amendment requires that the Secretary of Labor conduct a study of the feasibility of extending the exemption to include other State laws which establish health care plans and report to the Congress on his findings within two years.

ITEM	PRESENT LAW	HOUSE BILL	SENATE AMENDMENT
5. Waiver of preemption of ERISA in case of multiple employer welfare arrangements	The Employee Retirement Income Security Act of 1974 (ERISA) provides comprehensive rules relating to employee benefit plans, including plans providing health benefits to employees. ERISA generally supercedes State laws insofar as they relate to employee benefit plans.	The provision generally exempts certain multiple employer welfare arrangements from the ERISA preemption provision. Under the provision, a multiple employer welfare arrangement is defined as any plan or other arrangement established to offer welfare benefits, such as health insurance, to the employees of two or more employers. It does not include any plan maintained pursuant to a collective bargaining agreement or maintained by a rural electric cooperative. The provision is effective on the date of its enactment.	No provision.

ITEM	PRESENT LAW	HOUSE BILL	SENATE AMENDMENT
6. Reduction in income tax rate on Virgin Islands source income	The Treasury and the Government of the Virgin Islands take the position that present law imposes a 30-percent tax on the U.S. recipient of certain Virgin Islands source passive investment income, and that present law also imposes withholding at the source by the V.I. payor of such income. Certain taxpayers contend there is no such tax or withholding obligation.	No provision; however, a provision similar to the Senate amendment is included in H.R. 7093 as passed by the House and by the Senate, (H.R. 7093, as amended by the House on Dec. 14, 1982, is awaiting further Senate consideration. The House amendments include technical changes in the Virgin Islands provision.)	The Senate amendment provides for a 10-percent rate of tax by the Virgin Islands when the recipient is a U.S. citizen, resident alien, or corporation and provides for a corresponding withholding obligation on the V.I. payor of such income. The amendment will allow the V.I. Government further to reduce this 10-percent rate in its discretion. Payments of V.I. source passive income to non-U.S. persons will continue to be subject to the tax at a 30-percent rate. The new tax rates generally will apply to amounts received after the date of enactment. The withholding obligation will apply to payments made after the date of enactment.

ITEM	PRESENT LAW	HOUSE BILL	SENATE AMENDMENT
7. One-year extension of Highway Trust Fund taxes	Highway Trust Fund taxes are scheduled to be reduced or expire on October 1, 1984. At that time, revenues from the remaining highway excise taxes would go into the general fund. The current fuels tax exemption for qualified taxicabs expires after December 31, 1982. Expenditures may be made from the Trust Fund through September 30, 1984.	No provision. However, the Mays and Means Committee has reported a one-year extension of the Highway Trust Fund taxes and Trust Fund expenditures authority in H.R. 7092. H.R. 7092 also includes a two-year extension of the taxicab fuels tax exemption, through 1984. In addition, H.R. 7092 would transfer the Highway Trust Fund, with certain modifications, to the Internal Revenue Code. (Further, H.R. 6211 as passed by the House would extend the Trust Fund taxes and expenditure authority for 4 years, through September 30, 1988. H.R. 6211 would transfer the Highway Trust Fund, with certain modifications, to the Internal Revenue Code.)	The Senate amendment extends the Highway Trust Fund taxes for one year, through September 30, 1985. Also, the amendment provides a one-year extension of the current taxicab fuels tax exemption, through December 31, 1983. In addition, the amendment extends the Trust Fund expenditure authority for two years, through September 30, 1986.

COMPARISON OF THE REVENUE EFFECTS OF THE HOUSE AND SENATE VERSION OF
H.R. 5470
(millions of dollars)

ITEM	Fiscal Years			
	1983	1984	1985	1986
1. Exclusion for periodic damage payments				
House Bill-----	(1)	(1)	(1)	(1)
Senate Amendment----	(1)	(1)	(1)	(1)
2. Exclusion from gross income for certain foster care payments				
House Bill-----	(2)	(2)	(2)	(2)
Senate Amendment----	(2)	(2)	(2)	(2)
3. Taxation of Indian tribal governments-----				
House Bill-----	(3)	(3)	No Provision	(3)
Senate Amendment----			(3)	
4. Waiver of preemption in case of Hawaiian pre-paid health care act-----				
House Bill-----	(2)	(2)	(2)	(2)
Senate Amendment----	(2)	(2)	(2)	(2)
5. Waiver of preemption of ERISA in case of multiple employer welfare arrangements-----				
House Bill-----	(1)	(1)	No Provision	(1)
Senate Amendment----				

COMPARISON OF THE REVENUE EFFECTS OF THE HOUSE AND SENATE VERSION OF
H.R. 5470
(millions of dollars)

ITEM	Fiscal Years			
	1983	1984	1985	1986
6. Reduction in income tax rate on Virgin Islands source income--				
House Bill-----		No Provision		
Senate Amendment--	(1)	(1)	(1)	(1)
7. One-year extension of Highway Trust Fund taxes-----				
House Bill-----		No Provision		
Senate Amendment--	-2	-1	4,061	152
(1) Negligible revenue impact				
(2) Loss of less than \$5 million				
(3) Loss of less than \$10 million				